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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/674,882

09/30/2003

Robert Holt

180825.00047

9227

26710 7590 10/28/2009

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EXAMINER

MISKA, VIT W

ART UNIT

PAPER NUMBER

2833

NOTIFICATION DATE

DELIVERY MODE

10/28/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

pat-dept@quarles.com



## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-4 and 8-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ko et al (7294379) in view of Frommer et al (5947369). The Ko et al reference, previously applied, contains Figs. 26(a)-(d) and the description thereof which appear to be absent in the Provisional Application priority document, the filing date thereof being necessary for application of the Ko et al patent as a reference. However, Provisional Application 60/362471 provides support under 35USC112, first paragraph, for the subject matter of at least Figs. 1-12 of the patented reference, as applied below.

2. With respect to claims 1-4, 8-9 and 11, the reference discloses a time indicator 100 in Figs. 1 and 7 that provides a color indicia after a predetermined period of time has passed after activation (see col. 19, line 30), comprising: a substrate 102 having an upper surface and a lower surface (top and bottom surfaces thereof) and a first portion adjacent 106 and a second portion adjacent 104 joined at a fold line 114, an adhesive

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104 coating the upper surface of at least the second portion of the substrate (see col. 19, line 43) , a first reactant 106 adhered to the upper surface of the first portion of the substrate (col. 19, lines 47-49 "activator compound"); a second reactant 106 adhered to the upper surface of the second portion of the substrate (see col. 19, lines 46-47 "acid – based indicator"); whereby when the first portion is folded along the fold line so that the upper surfaces of the substrate contact each other and the first reactant and second reactant contact each other to activate the indicator and to provide the color indicia after the predetermined period of time after activation passes (col. 20, lines 40-44), wherein the first reactant is a printed indicia (col. 6, line 54) and the second reactant is the adhesive 104, wherein the substrate is transparent (col. 6, line 40), wherein the color indicia can be viewed through the lower surface of the substrate (col. 6, lines 40-41). With respect to claim 10, the second reactant is a chemical residue (activator 106 causes chemical reaction, col. 19, line 48).

3. Ko et al do not disclose "the first portion being smaller in area than the second portion" such that "a portion of the adhesive on the second portion remains exposed" when the two portions are folded. However, Frommer disclose a time indicating badge in Figs. 2-3 with first portion 54 and second portion 52 folded for activation of the timer, first portion 54 being smaller than portion 52 (Fig. 3) and adhesive 62 on substrate 52, 54 for securing the folded sections. As shown in Fig. 3, when portions 52, 54 are folded, portion 58c with adhesive 62 remains exposed for securing to the badge to an item (upon further folding of portion 58c). It would be obvious for one of ordinary skill in

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the art, having both references, to make portions of substrate 102 adjacent 106 smaller than portion 102 adjacent adhesive 104 in Ko et al such that, when folded, a portion of adhesive 104 remains exposed for providing a surface for attachment to another item, as taught by Frommer et al.

### ***Response to Arguments***

4. Applicant's comments have been given careful consideration; however, the argument is premised on removal of the Ko et al patent as a reference, and the argument is therefore moot in view of the new grounds of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vit W. Miska whose telephone number is 571-272-2108. The examiner can normally be reached on M-F 9-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on 571-272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Vit W. Miska/  
Primary Examiner, Art Unit 2833